

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:04-CR-47-1-F3

UNITED STATES OF AMERICA,

v.

THOMAS NEIL PICKETT,
Defendant.

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ORDER

This matter is before the court on Thomas Neil Pickett's ("Pickett") June 28, 2010 "Motion Seeking Relief" [DE-169]. Pickett asks the court to vacate the sentence and judgment entered against him following his conviction of two drug and two gun counts after trial by a jury. *See* [DE-107] (Amended Judgment). Pickett's previous § 2255 motion was dismissed [DE-128] by this court on the Government's Motion to Dismiss or for Summary Judgment [DE-123]. This court denied Pickett's motion for certificate of appealability, *see* [DE-139], and the Fourth Circuit Court of Appeals dismissed Pickett's appeal, *see* [DE-146, DE -147]. Pickett thereafter filed a "Motion for Relief from Judgment Pursuant to Rule 60(b)(6)" [DE-151] which was denied by this court [DE-152]. Pickett appealed therefrom, and the Fourth Circuit again dismissed his appeal and denied a certificate of appealability [DE-164; DE-165].

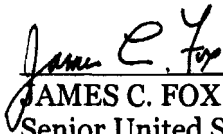
In his latest motion, Pickett again seeks to vacate the sentence and judgment entered against him. In other words, Pickett asks the "court which imposed the sentence to vacate, set aside, or correct the sentence." 28 U.S.C. § 2255. As this court has explained in previous orders, Pickett's requested relief may be had, if at all, only upon obtaining a pre-filing authorization from the Fourth Circuit Court of Appeals to file a successive § 2255 petition, because Pickett already has prosecuted a § 2255 motion concerning this conviction and sentence. *See United States v. Winestock*, 340 F.3d 200, 205 (4th Cir.), *cert. denied*, 540 U.S.

995 (2003) (explaining that “a prisoner seeking to file a successive application in the district court must first obtain authorization from the appropriate court of appeals”).

For the foregoing reasons, Pickett’s motion [DE-169] is DENIED without prejudice to his seeking a pre-filing authorization from the Fourth Circuit Court of Appeals.

SO ORDERED.

This the 1st day of July, 2010.



JAMES C. FOX
Senior United States District Judge